

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL VILLALBA,

Defendant.

8:18CR120

ORDER

This matter is before the Court on defendant Samuel Villalba's ("Villalba") Motion for Order to Show Cause Why Case Should Not be Dismissed (Filing No. 37) pursuant to Federal Rule of Criminal Procedure 12. As Villalba sees it, the Indictment in this case (Filing No. 27) should be dismissed because the government purportedly violated the pretrial-release order (Filing No. 17) and the Bail Reform Act of 1984, 18 U.S.C. § 3141 *et seq.*, by temporarily holding Villalba pursuant to an immigration detainer under the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, after he was ordered released in his criminal case.

On August 30, 2018, the magistrate judge¹ issued a Findings and Recommendation (Filing No. 52) recommending the Court deny Villalba's motion because Villalba "is not being detained and the government has apparently made its decision to proceed with this criminal prosecution." Villalba filed a Motion to Reconsider Findings and Recommendations and to Accept Supplemental Record (Filing No. 53), which the magistrate judge granted in part and denied in part after a hearing (Filing No. 61). The magistrate judge granted Villalba's unopposed request to supplement the record but denied his motion to reconsider, concluding Villalba's motion for a show-cause order "remains

¹The Honorable Michael D. Nelson, United States Magistrate Judge for the District of Nebraska.

unripe.” Villalba has neither objected to the magistrate judge’s findings and recommendation, *see* 28 U.S.C. § 636(b)(1)(B), nor sought review of the magistrate judge’s order denying reconsideration, *see id.* § 636(b)(1)(A).

Although § 636(b)(1) requires the Court to review de novo any “specified proposed findings or recommendations to which objection is made,” if neither party objects, further review is unnecessary. *See Peretz v. United States*, 501 U.S. 923, 939 (1991); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009) (“[T]he failure to file objections eliminates not only the need for de novo review, but *any* review by the district court.”); Fed. R. Crim. P. 59 (a), (b)(2) (explaining the failure to timely object waives the right to review); NECrimR 59.2(a), (e). The Court likewise need not “reconsider any pretrial matter under” § 636(b)(1)(A) unless “it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.”

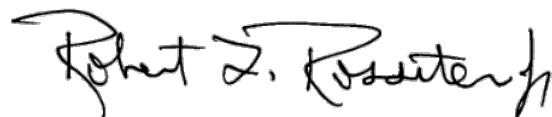
Given the lack of such a showing in this case and the absence of any objections to the magistrate judge’s findings and recommendation,

IT IS ORDERED:

1. The magistrate judge’s Findings and Recommendation (Filing No. 52) is accepted with respect to Samuel Villalba’s Motion for Order to Show Cause Why Case Should Not be Dismissed (Filing No. 37).
2. Any objections are deemed waived, and Villalba’s motion is denied.
3. The magistrate judge’s ruling on Villalba’s motion to reconsider is affirmed.

Dated this 12th day of October 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge